The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JUAN TAJALLE, Plaintiff, vs. CITY OF SEATTLE, SEATTLE PUBLIC LIBRARY, OFFICER SAM 8, a.k.a. JOHN DOE #1, and JOHN DOE #2, Defendants.	No. C07 1509TSZ DECLARATION OF MARILYNNE GARDNER

I, Marilynne Gardner, declare as follows:

1. I am over the age of eighteen, and competent to testify to the truth of the matters stated below on the basis of personal knowledge.

2. I am the Chief Financial and Administrative Officer of The Seattle Public Library. I am familiar with the Library's policies relating to the enforcement of the Library's Rules of Conduct, including the administrative review process available to individuals who have been excluded from the Library.

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3. On June 14, 2006, Juan A. Tajalle was excluded from the Library for fourteen days following an incident in which he exhibited threatening, harassing and disruptive behavior, and failure to comply with staff requests. The order was issued by David Adams, a Library Security Officer. A copy of the order is attached as Exhibit 1. Library security officers have the authority to issue exclusion orders of up to fourteen days. The notice of the exclusion given to Mr. Tajalle contained the advice that the subject may request an administrative review of the order by writing or emailing the Library at the addresses stated on the notice. Mr. Tajalle made no request for review, or written response of any kind, to the order of June 14, 2006.

4. On June 23, 2006, I approved a request submitted by officer Adams to exclude Mr. Tajalle from the Library for an additional period of six months, effective through December 13, 2006. The request was based on Officer Adams' observation of Mr. Tajalle during the incident of June 14, 2006. Attached as Exhibit 2 is a copy of the Request for Extended Exclusion from the Library that I signed.

5. On June 23, 2004, I wrote to Mr. Tajalle to inform him that he was excluded from the Library through December 13, 2006 for disruptive behavior, harassing a patron and staff members and the use of obscene language in violation of the Library's Rules of Conduct. Attached as Exhibit 3 is a copy of my letter of that date. With the letter, I enclosed a copy of the Library's Rules of Conduct. The letter informed Mr. Tajalle that he had the right to request an administrative review of the exclusion order by writing or emailing the Library at the addresses provided. Mr. Tajalle did not respond to my letter, and never requested an administrative review of the six-month exclusion.

6. Attached as Exhibit 4 is a copy of the Library's Rules of Conduct. The purpose of these rules is to support the Library's commitment to intellectual freedom and access to

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information by insuring a clean, comfortable, and safe environment for reading, research, study, writing, and attending programs and meetings. To this end, the rules forbid, among other things, verbally or physically threatening or harassing other patrons, creating disruptive noises, such as loud talking or screaming, and failing to comply with reasonable staff requests.

7. Attached as Exhibit 5 is a copy of "Guidelines for Excluding Individuals from the Seattle Public Library," publication number 070-APP-523. These guidelines are part of the Library's Administrative Procedure, and set forth the policies and procedures governing the exclusion of persons from the Library and the administrative review process available to those persons. The Library's Administrative Procedure is available for inspection by the public on request.

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated this 8th day of January, 2008, at Seattle, King County, Washington.

Marilynne Gardner

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206-386-4636 600-56120

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The Seattle Public Library

NOTICE OF EXCLUSION ORDER

SUBJECT'S NAME JUAN A TAJALLE
DATE 6/14 TIME 1520 LOCATION: ☒ Central ☐ Other
ID TYPE # STATE
DOB 1/25/44 RACE ASIAN HT WT
HAIR BLD EYES BROWN SEX MALE

This is notification that you have violated one or more of The Seattle Public Library Rules of Conduct or are trespassing. You are ordered to leave the premises and not return to any The Seattle Public Library site for 14 days under RCW 27.12.290. Certain violations may result in an administratively extended exclusion period up to one year.

The reason for this exclusion order is:

- ☐ Alcohol/Drug Violations
- ☒ Failure to Comply with Staff Request
- ☐ Offensive Hygiene
- ☒ Assault/Threat of Force
- ☒ Harassing Behavior
- ☒ Misconduct
- ☐ Consuming Food or Beverage
- ☐ Large Article(s)
- ☐ Sleeping/Camping
- ☒ Disruptive Behavior
- ☐ Theft or Misuse of Library Property
- ☐ Trespass
- ☐ Other

Comments:
STATED THAT SI DID NOT DO IT.

I acknowledge and understand that I am no longer permitted, invited, licensed, or otherwise privileged to enter upon or remain in or on the premises of any The Seattle Public Library for any reason for the time period noted above. I acknowledge that I have received a copy of this Notice of Exclusion Order and understand that, even if I refuse to sign it, I can be arrested if I enter or remain in or on any The Seattle Public Library premises for the time period noted above.

Subject's signature ________________ ☐Refused ☐Unable

Badge number of Library Officer issuing the Notice of Exclusion Order:
SAM 8

You may request an administrative review of exclusion orders in excess of seven days by writing to Administrative Review, 1000 Fourth Ave., Seattle, WA 98104-1109, or e-mailing administrative.review@spl.org. Your review request must be sent on or before the 14th calendar day after the date on this notice.

MS-27 rev. 03/2006

EXHIBIT 1

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The Seattle Public Library

Request for Extended Exclusion from the Library

Submit forms to Brandon Knutson, Security and Safety Manager, via fax 733-9448 or inter-office mail.

Date: 6/14/2006

Requested by (name and title) -- Branch Library Manager or designee or Central Library Manager or designee: Officer Adams

Library facility of inciden: Central

Subject's name: Juan A. Tajalle

Subject's address: Po Box 21434, Seattle Wa 98111

Description: Gender: Male Race: Asian Date of birth: 1/25/1944 Approximate age:

Height: 6 feet Weight in lbs: 240 Eye color: Brown Hair color: None (Bald)

Other identifying features: Waers military style outfit, with beret and black military boots.

Request for exclusion for: (30 days, 60 days, 90 days, 6 months, 9 months, 1 year, other): ~~1 year~~ 6 months (BK)

Reason for exclusion request (Summarize from attached "Accident and/or Incident Report, GF-127" or "SPL Security Incident Report". Describe briefly how the Rules of Conduct were violated and history of previous incidents, including applicable dates and what, if any, action was taken by staff to date.)

On the above date and approximate time, a male entered the library very agitated. The male saw Security looking at him, walked over to the Security desk and started a confrontation with Security and a near by patron. The male violated the following rules:

1. Disruptive Behavior ✓
2. Harassment ✓
3. Refusal to comply ✓
4. Misconduct ✓
5. ~~Threat of force~~

Due to the amount of violations and the nature of the violations, I am requesting that the male be excluded for 1 year.

Signature: David Adams

Approved: ✓ Denied: [ ]

By: [signature] 6/23/06 (BK)
Chief Financial and Administrative Officer or designee or City Librarian or designee

Date issued: 6-23-06 Effective through: 12-13-06

Comments:

EXHIBIT 2

The Seattle Public Library

1000 Fourth Avenue, Seattle, WA 98104-1109

June 23, 2006

Juan Tajalle
P. O. Box 21434
Seattle, WA 98111

RE: TEMPORARY EXCLUSION FROM SEATTLE PUBLIC LIBRARY
Exclusion Order 966

Dear Mr. Tajalle:

You are hereby excluded from Seattle Public Library (Library) through December 13, 2006 for violations of the Library Rules of Conduct. The violations were disruptive behavior and harassing a patron and staff members including obscene language.

If you enter any Seattle Public Library facility or grounds prior to December 14, 2006, you will be trespassed and subject to arrest by the Seattle Police Department.

You have the right to request an administrative review of this exclusion by writing to the City Librarian at the above address or by email at administrative.review@spl.org within 14 days of written notification to you of your exclusion. Include in your request for administrative review any written documentation you seek to have considered in the review process.

If this exclusion could result in overdue Library materials, please phone 206-386-4636 and ask to be transferred to the Security department.

Sincerely,

Marilynne Gardner
Chief Financial and Administrative Officer

Enclosure: Seattle Public Library Rules of Conduct brochure

cc: Security and Safety Manager
Security Officers

EXHIBIT 3

3k

THE SEATTLE PUBLIC LIBRARY
POLICY

SUBJECT: RULES OF CONDUCT

Welcome to The Seattle Public Library. The Library is supported by the taxes of the people of Seattle who expect each of our facilities to be clean, comfortable, and safe places for selecting materials, reading, researching, studying, writing, and attending programs and meetings. To this end, the Library is responsible for establishing rules of conduct to protect the rights and safety of Library patrons, volunteers, and staff, and for preserving and protecting the Library's materials, equipment, facilities, and grounds. In addition, the Library has a strong commitment to intellectual freedom and to freedom of access to information.

Enforcement of these rules will be conducted in a fair and reasonable manner. Library staff and/or Seattle Police Officers will intervene to stop prohibited activities and behaviors. Failure to comply with the Library's established rules, regulations, and policies could result in removal from the premises and exclusion from the Library for a period of one day to one year, or in arrest or prosecution. Violations could also result in the restriction and/or termination of Library privileges, including the use of Library computers and other equipment (RCW 27.12.290).

Individual patrons have the right to request an administrative review of an exclusion order that is for a period greater than seven days (The Seattle Public Library Policy #3j, Rules of Conduct Enforcement).

For the comfort and safety of patrons, volunteers, and staff, and the protection of Library property, the following actions are examples of conduct not allowed on Library property:

- Engaging in any activity in violation of Federal, State, local or other applicable law, or Library policy.
- Failing to comply with a reasonable staff request.
- Carrying firearms and dangerous weapons of any type (except by law enforcement officers and authorized security personnel of The Seattle Public Library).
- Being under the influence of alcohol/illegal drugs, and selling, using, or possessing alcohol/illegal drugs.
- Verbally or physically threatening or harassing other patrons, volunteers, or staff, including stalking, staring, lurking, offensive touching, and obscene acts such as sex acts and indecent exposure.
- Soliciting or conducting surveys not authorized by the Library.
- Stealing, damaging, altering, or inappropriate use of Library property in Library facilities or on Library grounds, including computer hardware and software, printers (The Seattle Public Library Policy #6g, Public Use of the Internet), copiers, phones, and other equipment.
- Trespassing in nonpublic areas, being in the Library without permission of an authorized Library employee before or after Library operating hours, or camping on Library grounds.
- Fighting or challenging to fight, running, pushing, shoving, or throwing things.

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EXHIBIT 4

- Creating disruptive noises such as loud talking, screaming, or banging on computer keyboards.
- Gambling and group activities which are disruptive to the Library environment.
- Using audible devices without headphones or with headphones set at a volume that disturbs others. Using cell phones, pagers, and other communication devices in a manner that disturbs others. Audible cell phone and pager ringers must be turned off.
- Using restrooms for bathing or shampooing, doing laundry, or changing clothes.
- Littering.
- Smoking, chewing, and other tobacco use in Library facilities.
- Entering the Library barefoot, without a shirt, with offensive body odor or personal hygiene, or being otherwise attired so as to be disruptive to the Library environment.
- Consuming food or beverages in public areas of the Library not authorized by the Library Food and Beverage Guidelines (The Seattle Public Library Administrative Procedure 070-APP-805, Food and Beverage Rule Guidelines).
- Bringing in articles that are too large to fit under one Library chair.
- Using wheeled devices in Library property or on Library grounds, except in designated areas, including skateboarding, roller-skating bicycling, scooters, and shopping carts (except for wheelchairs, walkers, and strollers).
- Moving Library furniture from where it is placed by Library staff.
- Lying down or sleeping in the restrooms, or on any floor, couch, table or seat in the Library, and by blocking aisles, exits or entrances by sitting down or lying down in them.
- Neglecting to provide proper supervision of children (The Seattle Public Library Policy #6h, Unattended Children).
- Bringing pets or animals, other than service animals necessary for disabilities, into the Library, except as authorized by the City Librarian.

DATE ADOPTED: March 16, 2004
DATE EFFECTIVE: May 23, 2004

SUPERCEDES POLICY:
Rules of Conduct Policy adopted May 27, 1997 and revised January 22, 2002

ADMINISTRATIVE PROCEDURE

The Seattle Public Library

Subject: **GUIDELINES FOR EXCLUDING INDIVIDUALS FROM THE SEATTLE PUBLIC LIBRARY**		Number: 070-APP-523
Originator: Director, Administrative Services	Approved: Deborah L. Jacobs, City Librarian	EFFECTIVE: June 1, 2006 SUPERSEDES: October 21, 2002
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Introduction

Every member of the public has the right to use the facilities and resources of The Seattle Public Library. Along with that right is a responsibility to comply with the Library's established rules, regulations, and policies. Engaging in conduct that violates the Library's Rules of Conduct may result in an individual being excluded from the Library (Rules of Conduct policy #3k). Exclusion time periods range from a partial day to one year. Fair, reasonable, and consistent enforcement of The Seattle Public Library Rules of Conduct is the job of every The Seattle Public Library employee.

Authorized Library employees are charged with administering the exclusion process in response to violations of the Rules of Conduct. It is recognized that, while guidelines serve to lead a Library employee through the exclusion process, varying circumstances will necessitate exercising sound independent judgment regarding enforcement of the rules. All employees should avoid directly engaging in enforcement activities that could reasonably jeopardize the safety of themselves or others.

Administrative Review Process (Rules of Conduct Enforcement Policy #3j)

Individuals who have been excluded from the Library for longer than 7 days and believe that they have been wrongly excluded have a due process right to timely request administrative reviews of the exclusion order. The exclusion order remains in effect pending the administrative reviews.

The administrative review is a written process with time limits. Individuals unable to participate in a written process may request reasonable accommodation.

1. On or before the 14th calendar day after the date on the Notice of Exclusion Order, the individual may send a request for an administrative review of the exclusion order by writing to Administrative Review, 1000 Fourth Avenue, Seattle, WA 98104, or emailing administrative.review@spl.org. Individuals shall include in the request any written documentation they seek to have considered in the review process.

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EXHIBIT 5

2. The City Librarian, or the acting City Librarian, shall review the exclusion order and send a written decision to the excluded individual on or before the 21st calendar day after the Library receives the request for the administrative review.

3. On or before the 14th calendar day after the date on the City Librarian's written decision, the individual may send a request for a Library Board review of the City Librarian's decision by writing to Administrative Review, 1000 Fourth Avenue, Seattle, WA 98104, or emailing administrative.review@spl.org.

4. The President of the Library Board, or another Board member acting as the President's designee, shall review the exclusion order, considering only the written record and the patron's written administrative review request, and shall send a written final decision to the excluded individual on or before the 21st calendar day after the Library Board received the request for an administrative review.

Exclusions

Q: Who is authorized to exclude an individual?

A: The City Librarian and the Director of Administrative Services (or another Library representative acting as a designee during the absence of the City Librarian or the Director of Administrative Services) are authorized to order exclusions for periods of time ranging from a partial day to 365 days. The Security Manager is authorized to order exclusions for a period of time up to 90 days. Security Officers, Central Library Managers, and Branch Library Managers are authorized to order exclusions for a period of time up to 14 days.

In the absence of the above-listed individuals, the highest-ranking staff member on duty is authorized to order an exclusion for a period of time up to 7 days. Upon the recommendation of the staff member ordering an exclusion, the Director of Administrative Services (or another Library representative acting as the Director's designee during the Director's absence) is authorized to extend the original exclusion time period for additional days not to exceed a total exclusion period of 365 days.

Staff members who are authorized to order exclusions will be provided guidelines, which will aid in determining the appropriate length of exclusion period.

The Director of Administrative Services (or another Library representative acting as the Director's designee during the Director's absence) will review all exclusion orders for exclusion periods in excess of 7 days. Exclusion time periods could be reduced following the review and a letter sent to the last known address of the excluded individual to notify him or her of the reduction.

Q: When does an individual's conduct warrant an exclusion order?

A: When the subject...

1. engages in any illegal activity in violation of federal, state, or local law, ordinance or regulation.

2. fights or threatens to fight.

3. engages in threatening or harassing behavior towards another, including sex acts and indecent exposure.

4. is under the influence of alcohol/illegal drugs, or selling, using, or possessing alcohol/illegal drugs.

5. trespasses in nonpublic areas or is in the Library without permission of an authorized Library employee before or after Library operating hours.

6. steals, or intentionally damages or destroys Library materials, equipment, or property.

7. is not a law enforcement officer or Seattle Public Library Security Officer and is carrying a firearm or dangerous weapon.

8. has violated a Library Rule of Conduct, has been previously warned about a similar rule violation, and a staff member or Security Officer has documented the warning in a log or incident report form.

Q: When should staff members and Security Officers call 9-911?

A: Whenever immediate Police assistance is needed because

1. a subject's behavior makes it unsafe for either the Security Officer and/or the staff member to attempt to exclude the subject.

2. an excluded individual has returned to the Library during the exclusion period and refuses to leave when asked by a staff member or Security Officer to do so. In cases where the excluded individual is hostile or potentially violent, staff and Security Officers should avoid approaching the excluded individual and should call 9-911 for assistance. If the excluded individual trespasses by returning to the Library a second time during the exclusion period, staff should immediately call 9-911 for assistance (possible Police arrest of the subject).

3. a subject displays a weapon or engages in unlawful activity, including theft and destruction of property.

4. a subject assaults or threatens another person in or on Library property.

5. a subject refuses to stop violating the Rules of Conduct and refuses to leave the Library when ordered to do so by a Security Officer or authorized staff member.

6. of other emergencies unrelated to Rules of Conduct enforcement, such as medical emergencies and bomb threats.

Q: How is an exclusion order issued and carried out?

A: All exclusion activity must be conducted with safety in mind. 9-911 should be called for any situations requiring immediate exclusion actions that would risk the safety of staff members (including Security Officers).

When safety concerns exist and an immediate exclusion of an individual is not necessary, staff may request the issuance of an exclusion order by faxing the request and supporting documentation to the Administrative Services Director at (206) 386-4108. The Director of Administrative Services (or another Library representative acting as the Director's designee) will make a decision regarding the requested *exclusion order and, if issued, will mail the Notice of Exclusion Order to the subject's last known address.*

When on site, Library Security Officers will (1) ask the subject to provide valid photo identification after informing the subject that he or she has violated the Library's Rules of Conduct, and (2) order the exclusion by providing a Notice of Exclusion Order and a copy of the Rules of Conduct while another Officer or staff member stands by. If a subject does not provide photo identification, the Security Officer will request verbal identification, attempt to identify the patron using other means, and provide an accurate and detailed physical description on the Notice of Exclusion Order.

- Security Officers will not conduct warrant checks during the course of ordering exclusions.

- When engaging in exclusion activity, trained Security Officers may utilize safe and minimal guiding and escorting techniques when necessary.

- While carrying out exclusion orders, trained Security Officers will use only the minimum amount of force reasonably necessary to protect themselves or another from assault or injury and to detain a subject for the Police when there is probable cause that the subject has committed a felony crime.

- If safe to do so while carrying out exclusion orders, a subject will be photographed whenever: (1) Adult subject (believed to be 18 years old or older) who is issued an exclusion order reasonably expected to be approved for over 14 days; OR (2) Any adult subject who refuses to produce government issued identification when requested; OR (3) Any adult being detained for police action; OR (4) Subjects under 18 years of age who are observed committing a crime and being detained for police action. Only Security Officers are authorized to photograph a subject, unless a Library manager is authorized by the Director of Administrative Services. The photograph of a subject will be stored in his/her record in the file named "All Security Incidents.mdb" located in the subfolder named "All Incidents Database" in the main folder named "Security & Safety Dept" in the V: drive; the path is V:\Security & Safety Dept\All Incidents Database\All Security Incidents.mdb. Staff are to use this file only in the non-public areas to protect confidentiality.

- All use of force will be reported on a Use of Force Report form and reviewed by the Administrative Services Director or designee within 48 hours.

Q: How is an exclusion order issued and carried out if a Security Officer is not available?

A: Staff members should approach each situation guided by training, judgment, and instincts. Safety should always come first. If a Security Officer is not available and it is safe to do so, an authorized staff member ('backed up' by another staff member) should utilize the CPI (Street Smart) supportive stance, maintain a safe distance, identify the subject using the safest and best means, inform the subject that he or she has violated the Library's Rules of Conduct, and instruct the subject to leave the property and not return to any Seattle Public Library until a specific date (ranging anywhere from the next day to 7 or 14 days). If safe to do so, an attempt should be made to provide the subject with a Notice of Exclusion Order and a copy of the Rules of Conduct. Whether or not the subject is provided with a Notice of Exclusion Order, the Notice should be completed for all exclusions and faxed along with other related documentation to the Administrative Services Director at (206) 386-4108 as soon as possible but no later than the end of the next day. Following a review of the exclusion, the Administrative Services Director will notify all Seattle Public Libraries of the exclusion.

Q: What steps should be taken if an individual violates an exclusion order?

A: If an individual who has been excluded from the Library returns to the Library during the exclusion period, the individual is trespassing and must leave the Library. The situation should be carefully assessed to determine a safe and effective approach for ensuring the departure of the excluded individual. This assessment is best made in consultation with the Security Manager, Security Officers, or the Director of Administrative Services, since these people will often have the most information regarding an individual.

In all cases, every employee in the work area should be made aware of the situation and no one should approach the individual alone. When the excluded individual has a known history of violence or hostile confrontation, 9-911 should be called. Along with all pertinent information, the 911 dispatcher should be informed that an individual was "trespassed" from the Library and that they have returned and are now "trespassing." It is very important that you tell the dispatcher if the trespasser is potentially threatening (due to current or past conduct at the Library).

If the excluded individual does not have a known history of violence and hostile confrontation and is behaving in a calm and lucid manner, either Security Officers or staff may instruct the individual to leave. 9-911 should be called if the individual refuses to leave when instructed to do so.